

**OFFICE OF THE CHIEF OF POLICE**

**SPECIAL ORDER NO. 7**

**August 1, 2006**

**APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON JULY 18, 2006**

**SUBJECT: TEMPORARY MODIFIED DUTY/REASONABLE ACCOMMODATION**

**EFFECTIVE: August 1, 2006**

**PURPOSE:** The Department is committed to ensuring that ill or injured employees (sworn and civilian) return to work as soon as possible, consistent with their medical restrictions. The Department shall ensure that this is accomplished in accordance with established Federal, State, and City laws. This Order serves to implement the Department's Temporary Modified Duty and Reasonable Accommodation Procedures. This Order does not apply to employees seeking modified assignment due to pregnancy. Pregnant employees shall be assigned to job duties in accordance with Department Manual Section 3/762.93, and the Family Medical Leave Act.

**PROCEDURE:**

**I. TEMPORARY DISABILITY EVALUATION/ACCOMMODATION.**

**A. TEMPORARY MODIFIED DUTY ASSIGNMENTS DEFINED.**

1. Temporary modified duty assignments are temporary accommodations within the Department provided to employees who temporarily cannot perform the essential functions of their civil service position. Temporary modified duty assignments are authorized by the Commanding Officer, Personnel Division, and approved by the Chief of Police.
2. The Chief of Police or designee has the final decision regarding any temporary modified duty assignment, based on an employee's restrictions and the best interests of the Department.

**B. GUIDELINES GOVERNING TEMPORARY MODIFIED DUTY ASSIGNMENTS.**

1. All employees seeking a temporary accommodation may be subject to a different work location, schedule change, shift change, or a change of duties.
2. Temporary modified duty assignments shall be evaluated periodically by the Department's

Disability Management Coordinator (DMC) to ensure consistent treatment of injured or ill employees and to assess the continued temporary accommodation of an employee outside the essential functions of his or her civil service position. This shall be accomplished in accordance with the Citywide Temporary Modified Duty Program guidelines. The Commanding Officer, Personnel Division, has been designated as the Department's DMC.

3. No employee shall be given a temporary modified duty assignment when the medical evaluation or restrictions indicate that the employee is incapable of performing in a modified position.
4. Any employee in a temporary modified duty assignment who remains unable to perform the essential job functions of his or her civil service position after 45 calendar days shall be referred to the DMC for a preliminary determination of the likelihood that the work restrictions will become permanent and to assess how the restrictions will affect the employee's ability to perform the essential functions of his or her civil service position.

If sufficient medical information is not available to make a preliminary determination, the DMC shall continue to monitor the employee for an additional 45 days, or until sufficient medical information becomes available.

When it appears that the work restrictions will not be permanent, and the restrictions can be accommodated within the essential functions of the employee's regular position, the DMC shall continue to monitor for potential changes and return the employee to his or her regular position, consistent with any work restrictions.

Where it appears that the work restrictions will be permanent and that they would preclude the employee from performing his or her essential job functions, the DMC should meet with the employee to begin the interactive process.

5. No later than 90 days after the date of injury, the DMC will review all files where an employee has been off work Injury on Duty (IOD) or sick continuously, or remains accommodated in a temporary modified duty assignment. If an employee is off work, the DMC will obtain updated medical information to determine whether a temporary modified duty assignment is appropriate. If an employee is being accommodated in a modified duty assignment and remains unable to perform the essential functions of his or her civil service position, the DMC shall make a determination whether the work restrictions are likely to become permanent. In cases where it appears that work restrictions will become permanent, the DMC should engage in the interactive process to assess for a permanent accommodation. Where it appears that work restrictions will not become permanent, and an employee will be able to return to full non-restricted duty within the next 60 days, the employee may be retained in the temporary modified duty assignment.
6. No later than 150 days after the date of injury, the DMC will assess any employees remaining in a temporary modified duty assignment. If an employee has been temporarily accommodated and is not expected to return to a full duty assignment, the DMC shall determine the need for the continued temporary assignment. The DMC may consult with the Personnel Department's Equal Employment Opportunity and Worker's Compensation staff to determine whether to place an employee off work on sick or IOD status, depending on the origin of the injury.
7. The concerned employee's divisional Injury on Duty and Sick Coordinator shall liaison with the DMC; Personnel Division staff to continue appropriate monitoring at all times.
8. If after 180 days, the DMC determines that an employee's temporary accommodation can no longer continue and that the employee should be placed off work, or the employee has been continuously off work IOD or sick status, the employee may be transferred to Personnel Division.

Personnel Division shall assume monitoring responsibility for employees transferred to Personnel Division.

9. Any employee transferred to Personnel Division pursuant to this policy may provide the Department with a medical note from his or her treating physician at any time indicating that the employee is medically capable of performing the essential job functions of his or her civil service position, with or without restrictions. In such circumstances:

- \* Employees without work restrictions will be returned to the original assigned division.
- \* Employees with work restrictions may be returned to the original assigned division if there is a position at that division which can accommodate the restrictions. If the division cannot accommodate the restrictions, the Department will make every effort to place the employee in a position that can accommodate the restrictions, as close to the employee's former division of assignment as possible.
- \* If the return of an employee from Personnel Division to his or her former division causes the division to be over-staffed in a particular class and/or paygrade, the Department may reassign an individual from that division to another division within the Department. In such cases, the Department will utilize the Managed Attrition Policy to determine the individual to be reassigned.

**Note:** An employee assigned to Personnel Division and returned to the original division of assignment will be considered to have continuous service at the original division for the purpose of calculating displacement seniority for managed attrition.

When a commanding officer replaces an employee who has been transferred to Personnel Division, the commanding officer is to notify the replacement that if the original employee returns and causes

the division to be overstaffed, the Managed Attrition Policy may be used to restore level staffing which may result in the replacement being moved to another division.

10. Employees assigned to temporary modified duty assignments remain eligible for overtime assignments that do not conflict with any medical restrictions.
11. The commanding officer of any employee with work restrictions shall review work permits to ensure that outside employment does not conflict with the employee's medical restrictions.

**C. REQUEST FOR A TEMPORARY MODIFIED DUTY ASSIGNMENT DUE TO A WORK RELATED OR NON-WORK RELATED ILLNESS/INJURY.**

**1. EMPLOYEE'S RESPONSIBILITIES.**

- a. When an employee is informed by his or her treating physician that the employee is medically capable of returning to work, the employee shall immediately notify his or her supervisor. The employee shall provide the Department with documentation of any medical restrictions imposed by the employee's treating physician.
- b. An employee shall obtain authorization and/or restriction(s) of temporary modified duty status from their treating physician and provide it to their immediate supervisor within five business days.

**2. COMMANDING OFFICER'S RESPONSIBILITIES.**

- a. An employee's commanding officer shall compare the employee's medical restrictions with available assignments and make every reasonable effort to provide a temporary modified duty assignment. Personnel Division, Medical Liaison Section, shall be notified immediately of any employee who is either placed in/or denied a temporary modified duty assignment.

- b. Employees placed into a temporary modified duty assignment shall be carried "LD" for official Department time keeping purposes. The "LD" code shall be used only for employees in a temporary modified duty assignment.
- c. When an employee cannot be accommodated in his or her assigned division, the employee's commanding officer shall contact the concerned Bureau IOD Coordinator for consideration for temporary modified duty placement within the Bureau.

## **II. PERMANENT DISABILITY EVALUATION/ACCOMMODATION.**

### **A. PERMANENT REASONABLE ACCOMMODATION DEFINED.**

- 1. Any employee with permanent medical restrictions may request a permanent reasonable accommodation to perform the essential job functions of his or her civil service classification.
- 2. Any employee who permanently cannot perform the essential job functions of his or her civil service classification may be placed off duty on sick or IOD status, depending on the origin of the injury, until a permanent reasonable accommodation is completed, the employee recovers fully with no restrictions, the employee is transferred to a more suitable job classification pursuant to City Charter, the employee voluntarily resigns his or her position, a pension is granted, or the employee is terminated pursuant to City Charter Rule.

**Note:** Any employee, who was injured on or after August 1, 2006, will be subject to the terms of this policy.

- 3. The Chief of Police or designee has the final decision regarding any permanent reasonable accommodation, based on an employee's restrictions and the best interests of the Department.

**B. REQUEST FOR A PERMANENT REASONABLE ACCOMMODATION.**

**1. EMPLOYEE'S RESPONSIBILITY.** Any employee requesting a permanent reasonable accommodation shall provide the Department with a physician's note listing any permanent medical restriction, and shall submit a "Reasonable Accommodation Assessment" form, to the Commanding Officer, Personnel Division.

**2. COMMANDING OFFICER'S, PERSONNEL DIVISION, RESPONSIBILITY.**

a. Upon receipt of such request, the Commanding Officer, Personnel Division, shall ensure that the concerned division completes a Reasonable Accommodation Assessment Evaluation. The DMC or designee shall meet with the concerned employee, and every reasonable effort shall be made to provide a permanent accommodation.

b. When an employee appeals a decision to deny accommodation, the Commanding Officer, Personnel Division, shall request that the Duty Evaluation Committee review the request.

**3. DUTY EVALUATION COMMITTEE RESPONSIBILITIES.**

a. The Duty Evaluation Committee shall be comprised of the following members: Commanding Officer, Personnel Group (Chair), Commanding Officer, Personnel Division, the concerned employee's commanding officer, Officer in Charge, Medical Liaison Section, and the Employee Relations Administrator. The Committee may seek advice from the City Attorney's Office as necessary.

b. The Committee shall convene within 30 days of the date of the request and consider the following:

- \* The nature, extent, and seriousness of the employee's restriction(s);
- \* Whether the employee, with reasonable accommodation, can perform the essential functions of the civil service classification, including such considerations as restructuring non-essential functions;

- \* Whether providing the employee with a reasonable accommodation would pose an undue hardship to the Department or pose a direct threat to the health or safety of the employee or others; and,
  - \* Any additional relevant factors.
- c. The Committee shall provide a recommendation to the Director, Office of Support Services. The Director of Support Services shall make a determination and ensure that the employee is notified in writing of the decision within seven days.
- d. When it is determined that an employee cannot be permanently accommodated, the employee shall be referred to Personnel Division for consideration to transfer into another job classification or for a disability or service retirement.
- e. Any employee who declines to transfer into another job classification, or fails to obtain a service or disability pension, shall be recommended for separation from the Department pursuant to applicable City Charter Rule.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Personnel Division, shall monitor compliance with this directive in accordance with Department Manual Section 0/080.30.

**FORM AVAILABILITY:** The Reasonable Accommodation Assessment Form will be available through Personnel Division, Medical Liaison Section.

**AMENDMENTS:** This Order adds Section 3/711.75 to the Department Manual.

WILLIAM J. BRATTON  
Chief of Police

DISTRIBUTION "D"